

RE: You have received a copyright takedown

From: Sofiann P (sofiannp@hotmail.com)

To: dmca-notifications@justin.tv; acerthorn@yahoo.com

Date: Saturday, September 11, 2021, 05:34 AM CDT

Dear Twitch Team,

The court has decided that my content IS Fair Use, reinstate the video. David if you keep abusing the DMCA reporting I'll have to sue you.

https://casetext.com/case/stebbins-v-polano?_cf_chl_jschl_tk=_pmd_Sklk4FyfcZgEY5m2nrr4mB_CRaDaVSjhRj6Ockrsmcw-1631356334-0-ggNtZGzNAiWjcnBszQkR

Stebbins v. Polano, 21-cv-04184-JSC | Casetext Search + Citator

Read Stebbins v. Polano, 21-cv-04184-JSC, see flags on bad law, and search Casetext's comprehensive legal database

casetext.com

Kind Regards,

Karl Sofiann Polano

De : DMCA <dmca-notifications@justin.tv>

Envoyé : samedi, 11 septembre 2021 04:24

À : Sofiann P <SofiannP@hotmail.com>; DMCA <dmca-notifications@twitch.tv>

Objet : Re: You have received a copyright takedown

Hello,

We pass along correspondence received from the Claimant, along with the supporting documents, indicating that this individual has filed an action seeking a court order to restrain you from engaging in the alleged infringing activity. Twitch will not repost the identified work given the filing by the Claimant, yet we remain willing to update our decision in light of developments in the case. We also welcome information or evidence you wish to submit to Twitch for our consideration in connection with this claim.

Thank you!



- MG |

Twitch IP Ops

E:

dmca-notifications@twitch.tv

W:

[twitch.tv](https://www.twitch.tv)

----- Forwarded message -----

From: 'acerthorn' via **DMCA-Notifications** <dmca-notifications@justin.tv>

Date: Thu, Sep 9, 2021 at 9:36 PM

Subject: Re: DMCA Copyright Claim: 2021-08-28T08:50:04.203693157Z - Acerthorn

To: DMCA <dmca-notifications@justin.tv>

Dear Twitch,

Please find, attached to this email, a Motion for Leave to File Amended Complaint that I have filed in Case No. 4:21-cv-04184-JSW in the United States District Court for the Northern District of California. In this motion, I seek to recover both injunctive relief and statutory damages for the copyright infringement that was the subject of this DMCA Takedown. The three exhibits that are attached to this motion all clearly demonstrate that it was this DMCA Takedown that I seek to add to his already impressively long list of infringements.

I believe this Motion for Leave to File Amended Complaint satisfies the statutory requirements under **17 USC §512(g)(2)(C)** to keep the infringing material from being reinstated. That statute does not require the copyright holder to file "a new lawsuit" (aka one unrelated to any previous or pending lawsuits) to restrain the subscriber from engaging in infringing activity; it merely requires me to file "an action" to restrain the subscriber from engaging in infringing activity. This suggests that nearly anything could suffice to keep the infringing material down, so long as it sets into motion a chain of events that, when it's all said and done, will result in the infringing activity being enjoined. The currently-pending Motion for Leave to File Amended Complaint fits that criteria.

I was going to wait until the Court granted my Motion and I actually filed the Amended Complaint before I notified you of the action. Unfortunately, it appears that will take a bit longer than I expected.

In the meantime, however, if you reinstate this video, I will seek to hold Amazon.com Inc. (the parent company of Twitch) liable for statutory damages, because I will argue that it has lost its safe harbor despite having received a notice that is sufficient under **17 USC §512(g)(2)(C)**.

Thank you, and please respond promptly notifying me of your intent to keep the infringing video down.

Sincerely,
David Stebbins

On Tue, Aug 31, 2021 at 6:34 PM DMCA <dmca-notifications@justin.tv> wrote:

Hello,

We

have received and processed your counter-notification and removed 1 copyright strike from your account. If your channel was suspended because of the notification of claimed infringement that you are responding to, your channel has been restored. If content

on your channel was deleted because of the notification of claimed infringement that you are responding to and we are able to replace or cease disabling access to it, we will do so within 10 business days. Thank you!

-

MG

Twitch

DMCA Ops

dmca-notifications@twitch.tv

On Sat, Aug 28, 2021 at 1:00 PM Sofiann P <SofiannP@hotmail.com> wrote:

URL(s) where the material that was the subject of the notification of claimed infringement appeared before it was identified, removed, or access to it was disabled:

<https://www.twitch.tv/videos/1102055994>

Name of the claimant who submitted the notification:

David Stebbins

Twitch channel:

SofiannP

Contact Info:

Karl Sofiann Axel Polano

SofiannP@hotmail.com

Regensbergstrasse 120, Zürich 8050, Switzerland

+41767021143

I, **Karl Sofiann Axel Polano**, wish to state that:

- I consent to the jurisdiction of the Federal District Court for the judicial district in which my address is located, or if my address is outside of the United States, the judicial district in which Twitch may be found, and will accept service of process from the claimant.
- I swear, under penalty of perjury, that I have a good faith belief that the material identified in the notification was identified, removed, and/or disabled as a result of mistake or misidentification.

Dear Twitch Staff,

I've just received notification that one of my livestream has been removed due to copyright infringement, which I know it wasn't. It was a review and criticism of David Stebbins' content aswell as exposing his malicious abuse of DMCA & Copyright Strike flagging system. This individual seems to be unaware of what "Fair Use" is because the entire livestream is a clear example of it. We are currently disputing this in court (See: <https://dockets.justia.com/docket/california/candce/3:2021cv04184/379614>))



[Stebbins v. Polano](#)
[3:2021cv04184](#) |
[US District Court](#)
[for the Northern](#)



District of
California | Justia

Date Filed Document
Text; June 2, 2021: Filing
5 Initial Case
Management Scheduling
Order with ADR

dockets.justia.com



This is also the same person that has attempted to abuse the justice system to get money from Google, Walmart, Microsoft and other companies.

(See: <https://law.justia.com/cases/federal/appellate-courts/ca9/12-35082/12-35082-2013-05-30.html>))



DAVID STEBBINS
V. MICROSOFT,
No. 12-35082 (9th
Cir. 2013)

DAVID STEBBINS V.
MICROSOFT, No.
12-35082 (9th Cir. 2013)
case opinion from the US
Court of Appeals for the

law.justia.com



The entire livestream was dedicated to him, criticizing his behavior as a content creator on Twitch & Youtube which falls under "Fair Use" in Europe & in the US.

If more information is needed I'll be happy to provide them.

Kind Regards,
Karl Sofiann Axel Polano

De : Twitch <no-reply@twitch.tv>

Envoyé : samedi, 28 août 2021 09:06

À : sofiannp@hotmail.com <sofiannp@hotmail.com>

Objet : You have received a copyright takedown



Dear SofiannP:

We've received a notification of claimed infringement with respect to your account. Here are the details:

Claim ID: fde828c9-71f9-41c9-b605-6dc312d9fbf3

Allegedly Infringing Content:

- at <https://www.twitch.tv/videos/1102055994> created on Thu, 29 Jul 2021 20:08:42 UTC

Other Removed Copies of Allegedly Infringing Content:

Copyrighted Work: Accidental Livestream from April 10, 2021

(<https://www.youtube.com/watch?v=6TSzvSW0V4w>)

Copyrighted Claimant: Acerthorn

Copyright Claimant Contact Email: acerthorn@yahoo.com

As a result of this notification, the accused content and archives of that content have been removed from Twitch. Your account has also been issued a copyright strike. You now have 1 copyright strike on your channel.

If you believe your content has been taken down as a result of mistake or misidentification, you can submit a valid Counter-Notification by following the requirements in our [DMCA Guidelines](#). If you would like to reach out to seek a retraction from the copyright claimant, please contact them directly. Further details are available in our [DMCA Guidelines](#).

In accordance with the DMCA, we have a policy of terminating the accounts of repeat infringers. To avoid future copyright strikes, please clear your account of any potentially infringing content and refrain from sharing any infringing content on Twitch in the future.

Sincerely,
Twitch Staff



© 2021 Twitch, All Rights Reserved

350 Bush Street, 2nd Floor, San Francisco, CA, 94104 - USA



Stebbins v. Polano.pdf
151.1kB